W.P. No. 400 of 2007

Hon. Prafulla C. Pant, J.

Heard Shri D.C.S. Rawat, learned counsel for the petitioner and learned A.G.A. for the State, who has accepted notice on behalf of respondent No. 1.

By means of this petition, the petitioner has sought writ in the nature of mandamus commanding the Sessions Judge, Udham Singh Nagar to examine the prosecution witnesses on day-to-day basis in Sessions Trial No. 124 of 2005, State Vs. Sayyed Hussain and others, relating to offences punishable under Sections 147, 323, 308, 452, and 506 I.P.C.

Keeping in view the provisions contained in sub-section (1) of Section 309 read with the proviso second to sub-section (2) of said section of Code of Criminal Procedure, 1973, the prayer made in the petition deserves to be accepted.

Therefore, in the interest of justice, this writ petition is disposed of summarily with the direction that the trial court shall hear the case on day-to-day basis, provided the witnesses are in attendance, keeping in view the spirit of the aforesaid provision.

(Prafulla C. Pant, J.)

Dt. 10.05.2007
Sweta